

**RESOLUTION NO. 75347**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE ADOPTING FINDINGS FOR PURPOSES OF AND PURSUANT TO THE PROVISIONS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT OF 1970 IN CONNECTION WITH ACTIONS TO SUPPORT IMPLEMENTATION OF THE NON-POTABLE RECLAMATION SYSTEM FOR THE SAN JOSE STATE UNIVERSITY CAMPUS PROJECT FOR WHICH A FINAL ENVIRONMENTAL IMPACT REPORT HAS BEEN PREPARED**

**WHEREAS**, the City of San José ("City") desires to support implementation of the development, connection, construction, and maintenance of a non-potable reclamation system for the San José State University ("SJSU") campus; and

**WHEREAS**, the Board of Trustees of California State University ("Board"), as a lead agency under the California Environmental Quality Act of 1970, together with implementing guidelines promulgated thereunder, all as amended to date (collectively, "CEQA"), prepared an environmental impact report (EIR) under CEQA for the *San José State University Master Plan 2001 Update*; and

**WHEREAS**, the final EIR prepared for the *San José State University Master Plan 2001 Update* project (the "Final EIR"), as that project is more specifically described in that Final EIR (the "Project") was certified by the Board on January 29, 2002; and

**WHEREAS**, on January 29, 2002, the Board adopted its Resolution No. RCPBG-01-02-02, approving the Final EIR for the *San José State University Master Plan 2001 Update* as required by CEQA, including a mitigation monitoring and reporting program and a statement of overriding considerations, and also approved the implementation of the *San José State University Master Plan 2001 Update* in its Resolution No. RCPBG-01-02-02; and

**WHEREAS**, prior to approving a resolution authorizing the City Manager to enter into an agreement with SJSU to construct recycled water facilities providing an expansion of the non-potable reclamation system for SJSU, the City Council, as a responsible agency under CEQA, desires to make certain findings pursuant to 14 California Code of Regulations, Sections 15091 and 15096, promulgated under CEQA in connection with such construction;

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of San José as follows:

1. The City Council has reviewed the information contained in the Final EIR that is relevant to its approval of a resolution authorizing the City Manager to enter into an agreement with SJSU for the construction of recycled water facilities, as a part

of the SJSU's implementation of the *San José State University Master Plan 2001 Update*, and has reviewed the CEQA findings contained in the Board's Resolution No. RCPBG-01-02-02 adopted by the Board for the *San José State University Master Plan 2001 Update* project, including without limitation the Environmental Mitigation Monitoring and Reporting Plan and the Findings of Fact and Statement of Overriding Considerations contained therein, all as relevant to its approval of the resolution authorizing the City Manager to enter into an agreement with SJSU to construct recycled water facilities, and, based thereon, as well as on any and all testimony received by the City Council at its hearing on the resolution authorizing the City Manager to enter into an agreement with SJSU, the City Council hereby concludes all of the following:

- a) The Board has already adopted the mitigation measures recommended in the Final EIR, the Board has authority to implement those mitigation measures or to seek any required approvals for those mitigation measures, and the City has no direct authority to implement the mitigation measures identified in the Final EIR and Resolution No. RCPBG-01-02-02; and
- b) The City Council has reviewed and considered the Final EIR and finds that the Final EIR is adequate for its use as a responsible agency decision-making body for its consideration of the resolution authorizing the City Manager to enter into an agreement with SJSU to construct recycled water facilities; and
- c) Approval of the resolution authorizing the City Manager to enter into an agreement with SJSU to construct recycled water facilities is within the scope of the activities evaluated in the Final EIR in that City's support of the Board's recycled water on-campus expansion is covered in the Final EIR, and the proposed resolution authorizing the City Manager to enter into an agreement with SJSU to construct recycled water facilities is consistent with the *San José State University Master Plan 2001 Update* project as described in the Final EIR and Resolution No. RCPBG-01-02-02; and
- d) Since the Final EIR was finalized, there have been no substantial changes to the *San José State University Master Plan 2001 Update* project and no substantial changes in *San José State University Master Plan 2001 Update* project circumstances that would require major revisions to the Final EIR due to the involvement of new significant environmental effects or an increase in the severity of previously identified significant impacts, and there is no new information of substantial importance that would change the conclusions set forth in the Final EIR; and
- e) The City Council has not identified any feasible alternative or additional feasible mitigation measures within its powers that would substantially

lessen or avoid any significant effect that the *San José State University Master Plan 2001 Update* project would have on the environment.

2. Therefore, based upon all of the foregoing, the City Council hereby adopts said findings within Resolution No. RCPBG-01-02-02 as a responsible agency under CEQA to the fullest possible extent that said findings are relevant to City's decision to approve a resolution authorizing the City Manager to enter into an agreement with SJSU to construct recycled water facilities.
3. The City Council additionally finds for the Findings of Facts and Statement of Overriding Considerations that the construction of the recycled water facilities is necessary to meet the Regional Water Quality Control Board's mandate to reduce discharge to south San Francisco Bay, and would also increase the reliability of water supply in the area, reducing requirements for rationing in times of drought. The recycled water facilities would provide a reliable supply of non-potable water for irrigation and industrial uses. It is also consistent with local, regional, and statewide policies encouraging reclamation. The short term impact on air quality and the slight potential for growth induction is outweighed by the project's benefits of water conservation, additional water supply, and reduction in discharge to the South Bay.
4. The Director of Planning is hereby directed to prepare a Notice of Determination under CEQA and cause the same to be filed with the County Clerk of the County of Santa Clara promptly following the City Council's approval action on the resolution authorizing the City Manager to enter into an agreement with SJSU to construct recycled water facilities.


**ADOPTED** this 20<sup>th</sup> day of April, 2010, by the following vote:


AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,  
KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.

  
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CHUCK REED  
Mayor

ATTEST:   
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LEE PRICE, MMC  
City Clerk